

James E. Mercante (JM 4231)  
Yoon S. Han (YH 7602)  
RUBIN, FIORELLA & FRIEDMAN LLP  
292 Madison Avenue  
New York, NY 10017  
(212) 953-2381  
*Attorneys for Petitioner*  
*Estate of Robert Chacon*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE COMPLAINT

of

Estate of ROBERT CHACON, deceased, as owner  
of a 2005 24-foot Baha motor vessel, for  
Exoneration from or Limitation of Liability,

Petitioner.

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**98 1516**  
**AMON, J.**  
**J. ORENSTEIN, M.J.**

Civil Action No.: CV

**COMPLAINT FOR EXONERATION  
FROM OR LIMITATION OF  
LIABILITY**

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D. NY  
★ APR 11 2008 ★  
BROOKLYN OFFICE

The Estate of ROBERT CHACON, (hereinafter "Petitioner"), by its attorneys, RUBIN, FIORELLA & FRIEDMAN LLP, for its Complaint seeking Exoneration from or Limitation of Liability, alleges, upon information and belief, as follows:

1. This is a proceeding for Exoneration from or Limitation of Liability pursuant to 46 U.S.C. § 30501 *et seq.*, involving admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure, and Rule "F" of the Supplemental Rules for Certain Admiralty and Maritime Claims, as hereinafter more fully appears.

2. ROBERT CHACON was the owner of 2005 24-foot Baha motor vessel (hereinafter the "Vessel") on October 20, 2007.

3. On October 20, 2007, when the Vessel was underway upon navigable waters of New York Harbor, Lower Bay, a casualty occurred involving the Vessel and the tugboat Melvin

Lemmerhirt's towing line.

4. On or about October 20, 2007, ROBERT CHACON died.
5. The Vessel became property of the Estate of ROBERT CHACON.
6. On April 2, 2008, Yvette Fiorentino was qualified as the administratrix of the Estate of ROBERT CHACON by the Surrogate Court of Bergen County, New Jersey.
7. Yvette Fiorentino is a resident of Saddle Brook, New Jersey.
8. ROBERT CHACON was not operating the Vessel when the casualty occurred.
9. The casualty was not caused by the fault or negligence of ROBERT CHACON.
10. As a consequence of the incident, Petitioner anticipates that there will be claims asserted against it in an amount that exceeds the amount of Petitioner's interest in the Vessel.
11. Any claim or claims, injury, loss, and/or damage arising from the casualty were not due to any fault or neglect on the part of the owner of the Vessel, ROBERT CHACON, and occurred without ROBERT CHACON's privity or knowledge.
12. The post-casualty value of the Vessel was determined to be \$500.00 (**EXHIBIT A**, Certificate of Market Valuation by Alcus Marine Technical Services, Inc.).
13. Petitioner, pursuant to Supplementary Rule "F" of the Federal Rules of Civil Procedure, offers an *Ad Interim* Security in the amount of \$500.00, said amount being not less than the value of Petitioner's interest in the Vessel on the date of the accident and there being no pending freight. (**EXHIBIT B**, *Ad Interim* Security).
14. Venue in this district is proper as the Vessel is located in the district.
15. Petitioner is entitled to Exoneration from Liability for any claims arising from the casualty and from any and all claims that have been or may hereafter be made, and Petitioner alleges that it has valid defenses thereto on the facts and law.

16. Petitioner claims, in the alternative, the benefit of Limitation of Liability provided by 46 U.S.C. § 30501 *et. seq.* and the various statutes supplementary thereto and amendatory thereof.

17. Petitioner has provided security herewith in the form of an *Ad Interim* Security sufficient to cover its interest in the Vessel with surety (“*Ad Interim* Security”) for the payment into Court, whenever the same shall be ordered, as provided for by the aforesaid statute and by Rule “F” of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and by the rules and practices of this Court.

**WHEREFORE**, Petitioner prays:

- (1) That this Court adjudge that Petitioner is not liable for any loss, injury, or damage arising out of the casualty, and therefore entitled to exoneration from liability,
- (2) If the Petitioner is adjudged liable, that such liability be limited to the value of its interest in the Vessel in the maximum amount of \$500 and that the Petitioner be discharged therefrom upon the surrender of such interest, and that the money surrendered, paid or secured as aforesaid, to be divided pro-rata according to the above-mentioned statutes among such Claimants as may duly prove their Claim, saving to all parties any priorities to which they may be legally entitled, and that a decree may be entered discharging Petitioner from all further liability.
- (3) That this Court issue an Order to include the following:
  - (a) Directing the issuance of Notice to all persons asserting Claims with respect to the accident, which this Complaint seeks Exoneration from or Limitation of Liability, to file their respective Claims with the Clerk of this Court and to serve on Petitioner’s undersigned counsel a copy thereof on or before a date to be named in the Notice.

- (b) Directing Petitioner to file an *Ad Interim* Security, as security for the benefit of any and all Claimants, in the amount of Petitioner's interest in the Vessel as of the date of the accident, with interest at the rate of 6% per annum from the date of said security or whenever the Court shall so order.
- (c) Directing that upon Petitioner's filing of an *Ad Interim* Security, an injunction shall issue enjoining the prosecution against Petitioner, its representatives and the Vessel, of any and all claims, suits, actions or proceedings, whether or not already begun, with respect to the incident, except in this proceeding.
- (4) That Petitioner may have such other and further relief as the justice of the cause may require.

Dated: April 11, 2008  
New York, New York

RUBIN, FIORELLA & FRIEDMAN LLP

By: 

James E. Mercante

Yoon S. Han.

292 Madison Avenue, 11th Floor

New York, New York 10017

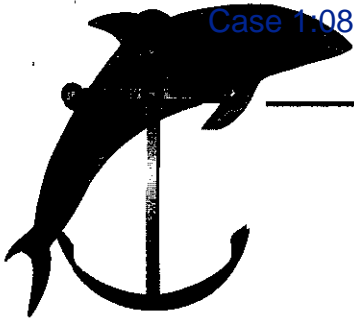
Ph: 212 953-2381

Fax: 212 953-2462

E-Mail: [jmercante@rubinfiorella.com](mailto:jmercante@rubinfiorella.com)

Our File No. 625-9714





# Alcus Marine Technical Services, Inc.

P.O. Box 700 • Moriches, New York 11955-0700  
(631) 874-1000 • Fax (631) 874-3000  
Internet: ALCUSMT@AOL.COM

November 30, 2007  
FILE NUMBER: not provided

Mr. Jim Mercante  
Rubin, Fiorella

RE: Robert Chacon  
Marine Appraisal of 2005 Baha Cruisers 240 WAC (no name listed on hull)

## CERTIFICATE OF MARKET VALUATION

This is to certify that the undersigned Marine Surveyor, having been requested by Mr. Jim Mercante, Rubin, Fiorella, to value the single screw 2005 Baha Cruisers of fiberglass construction, built 2005 at Baha Cruiser Boats Inc., May, FL 32066, Hull Identification Number: VBH01538J405, dimensions 24' L x 8' 6"B x 3' x 2'D, powered by single Mercruiser 5.0 liter MPI 220 horsepower inboard/ outboard gasoline powered engine serial # not legible, running hours not observed (no meter), fully equipped and hull in severely damaged condition due to impact damage caused by collision, the vessel also capsized and sunk in salt water and in our opinion is damaged beyond economically feasible repair hereby certify that having availed myself of the best possible information regarding this vessel, I estimate the current market value of the vessel in the sum of Five Hundred Dollars, US.

\*\*\*\*\* \$500.00 \*\*\*\*\*

The above report is a statement of opinion made, signed and submitted without prejudice to the rights and or/ interests of whom it may concern.

Respectfully submitted,  
Alcus Marine Technical Services Inc.

By: Ronald C. Alcus Jr., AMS, President



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE COMPLAINT

Civil Action No.: CV

of

***AD INTERIM SECURITY***

Estate of ROBERT CHACON, deceased, as owner  
of a 2005 24-foot Baha motor vessel, for  
Exoneration from or Limitation of Liability,

Petitioner.

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**WHEREAS**, Petitioner, the Estate of ROBERT CHACON, deceased, as owner of a 2005 24-foot Baha motor vessel (hereinafter the "Vessel"), is instituting a proceeding in this Court for Exoneration from or Limitation of Liability in respect to any claim or claims, loss, injury, and/or damage asserted or to be asserted in connection with a casualty involving the Vessel and the tugboat Melvin Lemmerhirt's towing line on or about October 20, 2007, while the Vessel was underway upon navigable waters of the United States, in Lower New York Harbor, near Coney Island, New York, and;

**WHEREAS**, Petitioner wishes to provide this *Ad Interim* Security in the amount of the post-casualty value of the Vessel as security for any and all claims arising from the incident;

**WHEREAS**, the value of Petitioner's interest in the post-casualty value of the Vessel described above has been fixed at \$500.00 as appears in **Exhibit A** to the Complaint herein;



**NOW, THEREFORE**, in consideration of the premises, Markel American Insurance Company (hereinafter "Markel American"), issuer of a Compass Boat Policy pertaining to the Vessel, having an office and place of business in Pewaukee, Wisconsin, hereby provides security in the sum of \$500.00 with interest thereon at the rate of 6% per annum from the date hereof. If this security is contested, then within thirty (30) days after entry of an Order confirming the report of an independent marine surveyor appointed by the court to appraise the post-casualty value of the Vessel, Markel American will file in this proceeding a *revised Ad Interim Security* conforming to such appraised value up to the hull insurance limits of liability in its Compass Boat Policy and in the interim, this *Ad Interim Security* shall stand as security for all Claims filed in said limitation proceeding;

**FURTHERMORE**, solely for the limited purposes of any suit based upon this *Ad Interim Security*, Markel American, hereby submits itself to the jurisdiction of this Court and designates, James E. Mercante, Esq., Rubin, Fiorella & Friedman, LLP, 292 Madison Avenue, New York, New York 10017, its agents for service of process, and Markel American agrees, together with the Petitioner, to pay the amount awarded by the final decree rendered by this Court, or an Appellate Court if an appeal intervenes, up to the principal amount of this Security, with interest as aforesaid, unless the post-casualty value of the Vessel shall have been paid into Court or a bond or *revised Ad Interim Security* thereof shall have been given as aforesaid, in which event this Security shall be void;

**FURTHERMORE**, it is understood and agreed that the execution of this *Ad Interim*

Security by the undersigned on behalf of the Vessel's insurer shall not be construed as binding on the undersigned but is to be binding only upon the insurer, Markel American.

Dated: April 10, 2008

MARKEL AMERICAN INSURANCE COMPANY

*Carol M. Siefkes*

Carol M. Siefkes  
Senior Casualty Claims Examiner  
MARKEL AMERICAN INSURANCE COMPANY

STATE OF WISCONSIN

COUNTY OF

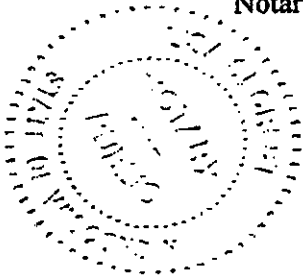
)  
) ss.:  
)

On this 10th day of April, 2008, before me personally came Carol M. Siefkes, being by me duly sworn, did depose and say that she is a Senior Casualty Claims Examiner for Markel American Insurance Company, the corporation described and which executed the foregoing *Ad Interim* Security, and that she executed same pursuant to her powers and duties.

Sworn to before me this  
10th day of April 2008.

*Lisa Secrest*

Notary Public



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE COMPLAINT

of

Estate of ROBERT CHACON, deceased, as owner  
of a 2005 24-foot Baha motor vessel, for  
Exoneration from or Limitation of Liability,

Petitioner.

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Civil Action No.

**J. ORENSTEIN, M.J.**

**NOTICE OF COMPLAINT FOR  
EXONERATION FROM OR  
LIMITATION OF LIABILITY**

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ APR 11 2008 ★

BROOKLYN OFFICE

**PLEASE TAKE NOTICE** that Estate of ROBERT CHACON, (hereinafter "Petitioner") as owner of a 2005 24-foot Baha motor vessel (hereinafter the "Vessel"), has filed a Complaint claiming the right to Exoneration from or Limitation of Liability pursuant to the vessel owner's Limitation of Liability Act, Title 46 U.S.C. §§ 30501 *et seq.*, concerning any claim or claims, loss, damage, injury, and/or expense asserted, or to be asserted, in connection with a casualty involving the Vessel and the tugboat Melvin Lemmerhirt's towing line on or about October 20, 2007, while the Vessel was upon navigable waters New York Harbor, Lower Bay, as described in the Complaint, and

**PLEASE TAKE FURTHER NOTICE** that all persons, firms, entities or corporations, having any claim or suit against Petitioners arising or resulting from the alleged incident must file a Claim, as provided in Rule "F" of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, with the Clerk of this Court, at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201, and must deliver or mail to the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA & FRIEDMAN, LLP, 292 Madison Avenue, New York, New York, 10017, a copy on

or before \_\_\_\_\_, **2008**, or be defaulted. Personal attendance is not required.

Further, any Claimant desiring to contest either the right to Exoneration from or Limitation of Liability of the Petitioners shall file an Answer to the Complaint on or before the aforesaid date as required by Supplemental Rule "F" of the Federal Rules of Civil Procedure, and deliver or mail a copy to the attorneys for the Petitioners, or be defaulted.

Dated: Brooklyn, New York  
April\_\_\_\_, 2008

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Clerk of the Court

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

In the Matter of Complaint of Estate of Robert Chacon for Exoneration from or Limitation of Liability

(b) County of Residence of First Listed Plaintiff Bergen County, NJ  
(EXCEPT IN U.S. PLAINTIFF CASES)

**AMON, J.**

**J. ORENSTEIN, M.J.**

(c) Attorney's (Firm Name, Address, and Telephone Number)

Rubin, Fiorella & Friedman LLP 292 Madison Ave., New York, NY 10017 (tel) 212-953-2381

## DEFENDANTS

**08-1516**

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED IN THE DISTRICT COURT OF D.C.

Attorneys (If Known)

★ APR 11 2008 ★

BROOKLYN OFFICE

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|
| Citizen of This State   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 |
| Citizen of Another State                                      | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 |
| Citizen or Subject of a Foreign Country                       | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 |
| Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
46 U.S.C. 30501 et seq.

Brief description of cause:  
Exoneration from or limitation of liability of vessel owner.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/08/2008

SIGNATURE OF ATTORNEY OF RECORD

*J. Orenstein*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

CBA

MAG. JUDGE

JO

08 cv 1516

**ARBITRATION CERTIFICATION**

I, \_\_\_\_\_, counsel for \_\_\_\_\_ do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs.  
✓ Relief other than monetary damages is sought.

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:  
N/A

**Please refer to NY-E Division of Business Rule 50.1(d)(2)**

1.) Is the civil action being filed in the Eastern District of New York removed from a New York State court located in Nassau or Suffolk County? No

2.) If you answered "no" above:

a.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No

b.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? \_\_\_\_\_

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.**

Yes ✓

No \_\_\_\_\_

**Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?**

Yes \_\_\_\_\_ (If yes, please explain)

No ✓

Please provide your E-MAIL Address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court.

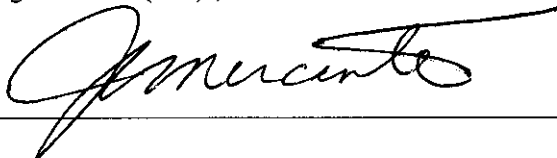
(This information must be provided pursuant to local rule 11.1(b) of the civil rules).

**ATTORNEY BAR CODE:** JM 4231

**E-MAIL Address:** JMercnate@rubinfoarella.com

I consent to the use of electronic filing procedures adopted by the Court in Administrative Order No. 97-12, "In re Electronic Filing Procedures(EFP)", and consent to the electronic service of all papers.

Signature: \_\_\_\_\_



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE COMPLAINT

of

Estate of ROBERT CHACON, deceased, as owner  
of a 2005 24-foot Baha motor vessel, for  
Exoneration from or Limitation of Liability,

Petitioner.

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Civil Action No.

**J. ORENSTEIN, M.J.**

**NOTICE OF COMPLAINT FOR  
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★ APR 11 2008 ★

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**PLEASE TAKE FURTHER NOTICE** that all persons, firms, entities or corporations, having any claim or suit against Petitioners arising or resulting from the alleged incident must file a Claim, as provided in Rule "F" of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, with the Clerk of this Court, at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201, and must deliver or mail to the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA & FRIEDMAN, LLP, 292 Madison Avenue, New York, New York, 10017, a copy on

or before \_\_\_\_\_, **2008**, or be defaulted. Personal attendance is not required.

Further, any Claimant desiring to contest either the right to Exoneration from or Limitation of Liability of the Petitioners shall file an Answer to the Complaint on or before the aforesaid date as required by Supplemental Rule "F" of the Federal Rules of Civil Procedure, and deliver or mail a copy to the attorneys for the Petitioners, or be defaulted.

Dated: Brooklyn, New York  
April\_\_\_\_, 2008

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Clerk of the Court



**RUBIN, FIORELLA & FRIEDMAN LLP**

ATTORNEYS AT LAW  
292 MADISON AVENUE  
NEW YORK, NEW YORK 10017  
TELEPHONE: (212) 953-2381  
FACSIMILE: (212) 953-2462

WRITER'S DIRECT DIAL:

E-MAIL:

(212) 447-4632

rhan@rubinfiorella.com

April 15, 2008

Via FAX (718) 613-2416

Honorable Carol B. Amon  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

*The Clerk of  
the Court is directed  
to transfer this case  
the U.S. District Court for  
the Southern District of N.Y.  
S. Amon*

Re: **In the Matter of the Complaint of Estate of Robert Chacon  
for Exoneration from or Limitation of Liability  
Civil Action No.: 08 CV 1516 (CBA)  
Our File No.: 625-9714**

s/Hon. Carol B. Amon

4/17/08

Dear Judge Amon:

We represent petitioner in the above-referenced admiralty limitation of liability action that was just filed on **April 11, 2008**.

We respectfully request that this action be transferred to the United States District Court for the Southern District of New York.

The Complaint was filed in this District because we believed that the venue was proper pursuant to Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims ("Rule F"). Rule F states that a Complaint for a limitation of liability action is to be filed in any district where the vessel is located, if the vessel has not been attached and no suit has commenced against the owner of the vessel. Petitioner's vessel has not been attached and no suit has commenced against the Petitioner. Petitioner's vessel was and is now located at the New York City Police Harbor Unit facilities in Randall's Island, New York.

We have since learned that the Randall's Island facility is not located in Queens (as we thought), but rather located in New York County. Therefore, the proper venue for this action should have been the Southern District of New York. The Court has discretion to transfer the action to proper venue pursuant to Rule F(9).

*In the Matter of the Complaint of Estate of Robert Chacon  
for Exoneration from or Limitation of Liability*

Civil Action No.: 08 CV 1516 (CBA)

April 15, 2008

Page 2

There is no prejudice to any party since the pleadings have not been served on any Claimant.

Respectfully submitted,

**RUBIN, FIORELLA & FRIEDMAN LLP**

By: \_\_\_\_\_

Yoon S. Han

YSH/sjm

**RUBIN, FIORELLA & FRIEDMAN LLP**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**ROBERT C. HEINEMANN**  
Clerk  
**TERRY VAUGHN**  
Chief Deputy

**U.S. Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201**

Clerk of Court  
U.S. District Court - Southern District of New York  
120 Daniel Patrick Moynihan  
500 Pearl Street  
New York, NY 10007-1312

April 25, 2008

RE: In the Matter of the Complaint of Estate of Robert Chacon  
EDNY's Case No: 08 cv 1516

Dear Clerk of Court:

Pursuant to the order of Honorable Carol B. Amon transferring this case to your court, the following documents are herewith enclosed:

- X   Certified copy of order of transfer
- X   Certified copy of docket sheet
- X   The original Court file

Kindly acknowledge receipt of the above-cited documents on the enclosed copy of this letter.

Yours truly,

**ROBERT C. HEINEMANN**  
Clerk of Court

By: Fida Abdallah  
Deputy Clerk  
(718) 613-2605

Enc.

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City New York State NY ZIP 10007-1312

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